

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.12, 307A.2, 321.188, 321.449 and 321.450, the Iowa Department of Transportation, on February 15, 2017, adopted amendments to Chapter 520, “Regulations Applicable to Carriers,” Chapter 529, “For-Hire Interstate Motor Carrier Authority,” and Chapter 607, “Commercial Driver Licensing,” Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the January 4, 2017, Iowa Administrative Bulletin as **ARC 2878C**.

Iowa Code section 321.188 requires the Department to adopt rules to administer commercial driver’s licenses in compliance with certain portions of 49 Code of Federal Regulations (CFR) Part 383.

Iowa Code section 321.449 requires the Department to adopt rules consistent with the Federal Motor Carrier Safety Regulations (FMCSR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 385 and 390 to 399. Iowa Code section 321.450 requires the Department to adopt rules consistent with the Federal Hazardous Materials Regulations (HMR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 107, 171 to 173, 177, 178 and 180.

Commercial vehicles transporting goods in interstate commerce are subject to the FMCSR on the effective dates specified in the Federal Register (FR). Commercial vehicles transporting hazardous materials in interstate commerce or transporting certain hazardous materials intrastate are subject to the HMR on the effective dates specified in the FR. The adoption of the federal regulations by the Department will extend the enforcement of the regulations to commercial vehicles operated intrastate unless exempted by statute.

The amendments to Chapter 520 adopt the current CFR dated October 1, 2016, for 49 CFR Parts 107, 171, 172, 173, 177, 178, 180, 385 and 390 to 399.

The amendment to Chapter 529 adopts the current CFR dated October 1, 2016, for 49 CFR Parts 365 to 368 and 370 to 379.

The amendment to Chapter 607 adopts the current CFR dated October 1, 2016, for certain portions of 49 CFR Part 383.

Proposed federal regulations are published in the FR to allow a period for public comment, and after adoption, the final regulations are published in the FR.

To ensure the consistency required by statute, the Department adopts the specified parts of 49 CFR as adopted by the United States Department of Transportation.

No changes within 761—Chapter 607 to 49 CFR Section 383.51 and 49 CFR Subparts E, G and H of Part 383 have occurred since the adoption of the October 1, 2015, CFR.

The amendments to the FMCSR and the HMR that have become final and effective since the 2015 edition of the CFR are listed below and affect 761—Chapters 520 and 529. The parts affected are followed by FR citations.

Amendments to the FMCSR and Federal HMR

Parts 365-366, 368, 385, 390 and 392 (FR Vol. 80, No. 203, Pages 63695-63714, 10-21-15)

This final rule delays the effective and compliance dates for Federal Motor Carrier Safety Administration’s (FMCSA) August 23, 2013, Unified Registration System (URS) final rule. Because FMCSA changes the effective date (the actual date when the regulatory text that appears in the CFR will be changed) and makes technical corrections and conforming amendments to the 2013 regulatory text, FMCSA determined that it is in the best interest of the regulated entities, state partners and the general public to present the full text of the sections affected. The 2013 URS final rule was issued to improve the registration process for motor carriers, property brokers, freight forwarders, intermodal equipment providers, hazardous materials safety permit applicants and cargo tank facilities required to register with FMCSA, and streamline the existing federal registration processes to ensure FMCSA can more efficiently track these entities. This final rule delays the implementation of the 2013 final rule in order to allow FMCSA additional time to complete the information technology systems work required

to fully implement that rule. Effective date: September 30, 2016, except for sections 365.T106, 368.T3 and 390.T200, which are effective from December 12, 2015, through September 29, 2016. Compliance date: September 30, 2016, except that new applicants must comply with sections 365.T106, 368.T3 or 390.T200 (as applicable) from December 12, 2015, through September 29, 2016.

Parts 171-173, 177-178 and 180 (FR Vol. 80, No. 225, Pages 72914-72929, 11-23-15)

This final rule amends the Pipeline and Hazardous Materials Safety Administration (PHMSA) HMRs to correct editorial errors, make minor regulatory changes and, in response to requests for clarification, improve the clarity of certain provisions. The intended effect of this rule is to enhance the accuracy and reduce misunderstandings of the regulations. The amendments contained in this rule are nonsubstantive changes and do not impose new requirements. Effective date: December 23, 2015.

Part 390 (FR Vol. 80, No. 229, Pages 74695-74710, 11-30-15)

This final rule adopts FMCSA regulations that prohibit motor carriers, shippers, receivers, or transportation intermediaries from coercing drivers to operate commercial motor vehicles (CMVs) in violation of certain provisions of the FMCSRs. These provisions include drivers' hours-of-service limits, the commercial driver's license (CDL) regulations, drug and alcohol testing rules, and the HMRs. In addition, the rule prohibits anyone who operates a CMV in interstate commerce from coercing a driver to violate the commercial regulations. This rule includes procedures for drivers to report incidents of coercion to FMCSA, establishes rules of practice that FMCSA will follow in response to reports of coercion, and describes penalties that may be imposed on entities found to have coerced drivers. This rule making is authorized by Section 32911 of the Moving Ahead for Progress in the 21st Century Act (MAP-21) and the Motor Carrier Safety Act of 1984, as amended. Effective date: January 29, 2016.

Parts 385, 390 and 395 (FR Vol. 80, No. 241, Pages 78291-78416, 12-16-15)

This final rule amends the FMCSA's regulations to establish minimum performance and design standards for hours-of-service (HOS) electronic logging devices (ELDs), requirements for the mandatory use of these devices by drivers currently required to prepare HOS records of duty status, requirements concerning HOS supporting documents, and measures to address concerns about harassment resulting from the mandatory use of ELDs. The requirements for ELDs will improve compliance with the HOS rules. Effective date: February 16, 2016. Compliance date: December 18, 2017.

Parts 171-173 and 177 (FR Vol. 80, No. 244, Pages 79423-79453, 12-21-15)

This final rule amends PHMSA's HMRs by establishing standards for the safe transportation of explosives on cargo tank motor vehicles and multipurpose bulk trucks transporting materials for blasting operations. This rule making is responsive to two petitions for rule making submitted by industry representatives: P-1557, concerning the continued use of renewal applications, and P-1583, concerning the incorporation of an industry standard publication. Further, developing these requirements provides wider access to the regulatory flexibility currently only offered by special permits and competent authorities. The requirements of this final rule mirror the majority of provisions contained in nine widely used, long-standing special permits that have established safety records. These requirements eliminate the need for future renewal requests, thus reducing paperwork burdens and facilitating commerce while maintaining a commensurate level of safety. This final rule authorizes the transportation of certain explosives, ammonium nitrates, ammonium nitrate emulsions, and other specific hazardous materials in both nonbulk and bulk packaging, which are not otherwise authorized under current regulations. These hazardous materials are used in blasting operations on cargo tank motor vehicles and specialized vehicles, known as multipurpose bulk trucks, which are used as mobile work platforms to create blends of explosives that are unique to each blast site. Finally, this rule making addresses the construction of new multipurpose bulk trucks. Effective date: January 20, 2016.

Parts 107, 171-173, 177, 178 and 180 (FR Vol. 81, No. 13, Pages 3635-3686, 1-21-16)

This final rule amends PHMSA HMRs required by MAP-21 to adopt provisions contained in certain widely used or long-standing special permits that have an established safety record. The adopted amendments are intended to provide wider access to the regulatory flexibility offered in special permits and eliminate the need for numerous renewal requests. The adopted amendments will also reduce paperwork burdens and facilitate commerce while maintaining an appropriate level of safety. PHMSA conducted an extensive analysis of all active special permits and codified, as appropriate, those special

permits deemed suitable in this rule making. Effective date: February 22, 2016. Voluntary compliance date: beginning February 22, 2016. Delayed compliance date: January 23, 2017.

Part 390 (FR Vol. 81, No. 51, Pages 13998-14000, 3-16-16)

This final rule extends the compliance date by which motor carriers of passengers operating CMVs under a lease or interchange agreement are subject to the FMCSA final rule published May 27, 2015, for one year, to January 1, 2018. FMCSA received numerous petitions for reconsideration of the final rule and, based upon a review of the petitions, determined that the compliance date should be extended to provide sufficient time to address the issues raised by the petitioners. FMCSA is adding a temporary section to its regulations to inform the public of this extension. There will no longer be a need for the section on the compliance date after January 1, 2018; thus, the temporary section will be in effect only from March 16, 2016, through January 1, 2018. Effective date: March 16, 2016, until January 1, 2018. Compliance date: January 1, 2018.

Parts 171 and 173 (FR Vol. 81, No. 62, Pages 18527-18541, 3-31-16)

This final rule adopts PHMSA regulatory amendments applicable to the reverse logistics shipments of certain hazardous materials by highway transportation. This final rule revises the HMRs to include a definition of “reverse logistics” and provides appropriate provisions for hazardous materials within the scope of this definition. This final rule also expands a previously existing exception for return shipments of used automobile batteries transported between a retail facility and a recycling center. PHMSA incorporated recommendations from petitions for rule making and public comment into this rule making. Effective date: March 31, 2016.

Parts 171, 173 and 178 (FR Vol. 81, No. 83, Pages 25613-25618, 4-29-16)

This PHMSA direct final rule incorporates by reference the most recent editions of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code. The purpose of this update is to enable nonspecification (nurse tank) manufacturers and other DOT and United Nations specification packaging manufacturers to utilize current technology, materials, and practices to help maintain a high level of safety. PHMSA is replacing the ASME referenced standard (1998 Edition) with the new, current ASME standard (2015 Edition) for boiler and pressure vessels. PHMSA is also replacing the ASME 1998 Edition referenced standard of ASME’s Transportation Systems for Liquids and Slurries: Pressure Piping to the current 2012 Edition. Effective date: June 28, 2016.

Parts 107, 171-173, 177-178 and 180 (FR Vol. 81, No. 106, Pages 35483-35546, 6-02-16)

This final rule amends PHMSA’s HMRs to make miscellaneous amendments in order to update and clarify certain regulatory requirements. These amendments are designed to promote safer transportation practices, address petitions for rule making, respond to National Transportation Safety Board (NTSB) safety recommendations, facilitate international commerce, make editorial corrections, and simplify the regulations. The amendments in this rule making include, but are not limited to, removing the packing group II designation for certain organic peroxides, self-reactive substances, and explosives; incorporating requirements for trailers of manifolded acetylene cylinders; providing requirements to allow for shipments of damaged wet electric batteries; and revising the requirements for the packaging of nitric acid, testing of pressure relief devices on cargo tanks, and shipments of black or smokeless powder for small arms. Effective date: July 5, 2016.

Part 392 (FR Vol. 81, No. 109, Pages 36474-36479, 6-07-16)

This final rule revises FMCSA’s regulations by requiring passengers in property-carrying CMVs to use the seat belt assembly whenever the vehicles are operated on public roads in interstate commerce. This rule holds motor carriers and drivers responsible for ensuring that passengers riding in the property-carrying CMV are using the seat belts required by the Federal Motor Carrier Safety Standards. Effective date: August 8, 2016.

Part 385 (FR Vol. 81, No. 117, Pages 39587-39590, 6-17-16)

This final rule amends FMCSA’s hazardous materials safety permit rules to update the current incorporation by reference of the Commercial Vehicle Safety Alliance’s “North American Standard Out-of-Service Criteria and Level VI Inspection Procedures and Out-of-Service Criteria for Commercial Highway Vehicles Transporting Transuranics and Highway Route Controlled Quantities of Radioactive Materials as defined in 49 CFR part 173.403.” Currently, the rules reference the April 1, 2015, edition of

the out-of-service criteria, and through this final rule, FMCSA incorporates the April 1, 2016, edition. Effective date: June 17, 2016.

Part 392 (FR Vol. 81, No. 129, Page 43957, 7-06-16)

This final rule corrects an error in FMCSA's June 7, 2016, final rule "Driving of Commercial Motor Vehicles: Use of Seat Belts." The amendatory language in the final rule inadvertently limited the applicability of the requirement for drivers to use their seat belts to operators of property-carrying vehicles. This correction fixes the error such that drivers of passenger-carrying vehicles will continue to be required to wear their seat belts. Effective date: August 8, 2016.

Parts 365, 390-393 and 395-396 (FR Vol. 81, No. 141, Pages 47714-47722, 7-22-16)

This final rule adopts, as final, certain FMCSA regulations required by the Fixing America's Surface Transportation Act (FAST Act) enacted on December 4, 2015. The statutory changes went into effect on October 1, 2015, retroactively, and require that FMCSA make conforming changes to its regulations to ensure they are current and consistent with the statutory requirements. Adoption of these rules is a nondiscretionary, ministerial action that FMCSA may take without issuing a notice of proposed rule making and receiving public comment, in accordance with the good cause exception available to federal agencies under the Administrative Procedure Act. Effective date: July 22, 2016.

Parts 393 and 396 and Appendix G (FR Vol. 81, No. 141, Pages 47722-47732, 7-22-16)

This final rule amends FMCSA's regulations in response to several petitions for rule making from Commercial Vehicle Safety Alliance and the American Trucking Associations and two safety recommendations from NTSB. Specifically, FMCSA adds a definition of "major tread groove" and an illustration to indicate the location of tread wear indicators or wear bars on a tire signifying a major tread groove; revises the rear license plate lamp requirement to eliminate the requirement for an operable rear license plate lamp on vehicles when there is no rear license plate present; amends the regulations regarding tires to prohibit the operation of a vehicle with speed-restricted tires at speeds that exceed the rated limit of the tire; provides specific requirements regarding when violations or defects noted on an inspection report must be corrected; amends two appendices to the FMCSRs to include provisions for the inspection of antilock braking systems and automatic brake adjusters, speed-restricted tires, and motor coach passenger seat mounting anchorages; amends the periodic inspection rules to eliminate the option for a motor carrier to satisfy the annual inspection requirement through a violation-free roadside inspection; and amends the inspector qualification requirements as a result of the amendments to the periodic inspection rules. In addition, FMCSA eliminates introductory regulatory text from an appendix to the FMCSRs because the discussion of the differences between the North American Standard Inspection out-of-service criteria and FMCSA's periodic inspection criteria is unnecessary. Effective date: July 22, 2016.

Parts 365-366, 368, 385, 390 and 392 (FR Vol. 81, No. 145, Pages 49553-49555, 7-28-16)

This final rule is correcting the effective and compliance dates for FMCSA's August 23, 2013, URS final rule, as revised on October 21, 2015. The 2013 URS final rule was issued to improve the registration process for motor carriers, property brokers, freight forwarders, intermodal equipment providers, hazardous material safety permit applicants, and cargo tank facilities required to register with FMCSA and streamline the existing federal registration processes to ensure FMCSA can more efficiently track these entities. The October 21, 2015, final rule made slight revisions to the 2013 rule and delayed the effective dates of that rule. This final rule corrects the effective and compliance dates, revised in 2015, and corrects regulatory provisions that have not yet gone into effect, as well as several temporary sections that are in effect already, to allow FMCSA additional time to complete the information technology systems work. Effective date: July 28, 2016.

Part 393, Appendix G (FR Vol. 81, No. 171, Pages 60633-60634, 9-02-16)

This final rule makes corrections to a final rule published in the Federal Register on July 22, 2016, regarding amendments to the FMCSRs in response to several petitions for rule making and NTSB recommendations. FMCSA makes several minor clerical corrections regarding the rear license plate lamp requirements and the periodic inspection requirements for antilock brake systems. Effective date: September 2, 2016.

Part 393 (FR Vol. 81, No. 185, Pages 65568-65574, 9-23-16)

This final rule amends FMCSA's regulations to allow the voluntary mounting of certain devices on the interior of the windshields of CMVs, including placement within the area that is swept by the windshield wipers. Section 5301 of the FAST Act directs FMCSA to amend the FMCSRs to allow devices to be mounted on the windshield that utilize "vehicle safety technology," as defined in the Act. In addition, Section 5301 states that all windshield-mounted devices/technologies with a limited two-year exemption in effect on the date of enactment shall be considered to meet the equivalent-or-greater safety standard required for the initial exemption. Promulgation of this final rule is a nondiscretionary, ministerial action that does not require prior notice and public comment under the Administrative Procedure Act. Effective date: October 24, 2016.

Various portions of the federal regulations and Iowa statutes allow some exceptions when the exceptions will not adversely impact the safe transportation of commodities on the Nation's highways. Granting additional exceptions for drivers and the motor carrier industry in Iowa would adversely impact the safety of the traveling public in Iowa.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

These amendments are identical to those published under Notice of Intended Action.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 321.188, 321.449, 321.450 and 327B.1.

These amendments will become effective April 19, 2017.

The following amendments are adopted.

ITEM 1. Amend paragraph **520.1(1)“a”** as follows:

a. *Motor carrier safety regulations.* The Iowa department of transportation adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 385 and 390-399 (October 1, ~~2015~~ 2016).

ITEM 2. Amend paragraph **520.1(1)“b”** as follows:

b. *Hazardous materials regulations.* The Iowa department of transportation adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, ~~2015~~ 2016).

ITEM 3. Amend rule 761—529.1(327B) as follows:

761—529.1(327B) Motor carrier regulations. The Iowa department of transportation adopts the Code of Federal Regulations, 49 CFR Parts 365-368 and 370-379, dated October 1, ~~2011~~ 2016, for regulating interstate for-hire carriers.

Copies of this publication are available from the state law library or through the Internet at <http://www.fmcsa.dot.gov>.

ITEM 4. Amend paragraph **607.10(1)“c”** as follows:

c. The following portions of 49 CFR Part 383 (October 1, ~~2015~~ 2016):

- (1) Section 383.51, Disqualification of drivers.
- (2) Subpart E—Testing and Licensing Procedures.
- (3) Subpart G—Required Knowledge and Skills.
- (4) Subpart H—Tests.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/15/17.